

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

PATRICIA ANN PARKER and)
CHARLES O. SHEPHARD,)
Plaintiffs,) Case No. 1:13cv00060
v.)
CARL GREGORY AUTOMOTIVE,) **REPORT AND RECOMMENDATION**
et. al.,) By: Pamela Meade Sargent
Defendants.) United States Magistrate Judge
)

This matter is before the court on the pro se plaintiff Charles Shephard's Motion To Cease All Advertisement Until Trial, (Docket Item No. 29) ("Motion"). The Motion is before the undersigned magistrate judge by referral pursuant to 28 U.S.C. § 636(b)(1)(B). The undersigned now submits the following report and recommended disposition.

"The law is well settled that federal injunctive relief is an extreme remedy." *Simmons v. Poe*, 47 F.3d 1370, 1382 (4th Cir. 1995). Furthermore, a preliminary injunction is considered "an extraordinary remedy involving the exercise of a very far-reaching power, which is to be applied 'only in [the] limited circumstances' which clearly demand it." *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 811 (4th Cir. 1991) (quoting *Instant Air Freight Co. v. C.F. Air Freight, Inc.*, 882 F.2d 797, 800 (3rd Cir. 1989)). The party seeking entry bears the burden to establish that these factors support granting a preliminary injunction: (1) the

likelihood of irreparable harm to the movant if preliminary injunctive relief is denied; (2) the likelihood of harm to the opposing party if the requested relief is granted; (3) the movant's likelihood of succeeding on the merits of the action; and (4) the public interest. *See Equity in Athletics, Inc. v. Dep't of Educ.*, 504 F. Supp. 2d 88, 99 (W.D.Va. 2007) (citing *Direx Israel, Ltd.*, 952 F.2d at 812).

The Motion appears to request injunctive relief preventing the defendants from conducting *any* advertising during the pendency of this action. Based on the information currently before the court, I find that Shephard has failed to establish that the entry of a preliminary injunction is appropriate. The Complaint filed in this matter is not a sworn pleading. The Motion also is not sworn, and no affidavits or other evidence establishing a likelihood of success on the merits has been provided to the court.

PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

As supplemented by the above summary and analysis, the undersigned now submits the following formal findings, conclusions and recommendations:

1. Shephard has failed to establish that the entry of a preliminary injunction is appropriate; and
2. The court should deny the Motion.

RECOMMENDED DISPOSITION

Based on the above-stated reasons, I recommend that the court deny the Motion.

Notice to Parties

Notice is hereby given to the parties of the provisions of 28 U.S.C. § 636(b)(1)(C):

Within fourteen days after being served with a copy [of this Report and Recommendation], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed finding or recommendation to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence to recommit the matter to the magistrate judge with instructions.

Failure to file written objection to these proposed findings and recommendations within 14 days could waive appellate review. At the conclusion of the 14-day period, the Clerk is directed to transmit the record in this matter to the Honorable James P. Jones, United States District Judge.

The Clerk is directed to send copies of this Report and Recommendation to all counsel of record and unrepresented parties.

DATED: This 2nd day of October, 2013.

/s/ Pamela Meade Sargent
UNITED STATES MAGISTRATE JUDGE